

Division of Oil and Gas  
402 West Washington St., Rm.W293  
Indianapolis, IN 46204-2748  
(317) 232-4055  
(317) 232-1550 fax

**NOTICE OF INFORMAL HEARING ON APPLICATION FOR FORCED POOLING  
FILED BY COUNTRYMARK ENERGY RESOURCES, LLC**

**MUEHLENBIEN-MIDWAY UNIT  
SECTION 27, TWP 6 SOUTH, RNG 12 WEST, POSEY COUNTY, IN**

**CAUSE NO. DOG-3-2010**

TO: Old National Bank, 022 Mt. Vernon, P.O. Box 746, 402 Main Street, Evansville, IN 47620  
Fifth Third Bank, P.O. Box 778, Evansville, IN 47705-0778  
Fifth Third Bank, 111 Lyon N.W., Grand Rapids, MI 49503  
Old National Bank, 174 Commercial Lending Evansville, 1 Main Street, P.O. Box 1343, Evansville, IN 47705-9959  
Mortgage Electronic Registration Systems, Inc., P.O. Box 2026, Flint, MI 48501-2026  
Wells Fargo Home Mortgage, MAC X3802-003A, 8480 Stagecoach Circle, Frederick, MD 21701  
PGNF Home Lending Corp., 801 N. Cass Ave., Suite 300, Westmont, IL 60559  
PGNF Home Lending Corp., 1431 Opus Place, Suite 200, Downers Grove, IL 60515  
Bank of New York, Trustee, c/o Phillip A. Norman, Phillip A. Norman PC, 2110 Calumet, Valparaiso, IN 46383-7867  
Countrywide Home Loans, Inc., MS SV-79, Document Processing, P.O. Box 10423, Van Nuys, CA 91410-0423  
Countrywide Home Loans, Inc., 4500 Park Granada, MSN #SVB-314, Calabasas, CA 91302-1613  
Countrywide Home Loans, Inc., 1396 N. Green River Road, Evansville, IN 47715  
Brent S. Potter, Doyle Legal Corporation PC, First Indiana Plaza, Suite 2000, 135 N. Pennsylvania Street, Indianapolis, IN 46204  
Bayview Financial Trading Group LP, and Bayview Loan Servicing, 4425 Ponce De Leon Blvd, 5<sup>th</sup> Floor, Coral Gables, FL 33146  
Bayview Financial Trading Group LP, and Bayview Loan Servicing, 4425 Ponce De Leon Blvd, 4<sup>th</sup> Floor, Coral Gables, FL 33134

EverHome Mortgage Company, 8200 Nations Way, Jacksonville, FL 32256-4434

Evansville Commerce Bank, 20 Northwest 4<sup>th</sup> street, Evansville, IN 47708-1724

Chase Home Finance, Attn: Land Transaction, P.O. Box 9001871, Louisville, KY 40290-1871

First Federal Savings Bank of Evansville, 5001 Davis Lant Drive, Evansville, IN 47706-1111

First Federal Savings Bank of Evansville, 220 Federal Drive, Corydon, IN 47112

Mortgage Electronic Registration Systems, Inc., SW 34<sup>th</sup> Avenue, Suite 101, Ocala, FL 34474

Legence Bank, 1010 Buena Vista Drive, Evansville, IN 47710

AmTrust Bank, a division of New York Community, 615 Merrick Avenue, Westbury, NY 11590

Citizens National Bank, 20 NW 3<sup>rd</sup> Street, Evansville, IN 47739-0001

### **Purpose Of This Notice**

You are being provided with this notice because a petition has been submitted to our office on behalf of Countrymark Energy Resources, LLC., requesting that certain unleased interests be incorporated into their proposed Muehlenbein-Midway Unit. This unit is being established for the purpose of drilling for and producing crude oil or natural gas and is located in the Southwest Quarter of the Northwest Quarter of Section 27, Township 6 South, Range 12 West, in Posey County, Indiana.

Additionally, Countrymark has determined that you are or may be the holder of certain mortgagee interests dated prior in time to their acquisition of oil and gas leases from various property owners within the Muehlenbein-Midway Unit. The interests are identified more specifically in Exhibit A to the enclosed Application for Integration Order.

Countrymark believes that the rights granted to them by the oil and gas leases covering Tracts 2 through 31 were allowed as easements or appurtenances under the terms of the respective mortgages which do not impair the value of the security and that the Mortgagee interests should be bound by and subject to the proposed integration order as to Lease Tracts 2 through 31 and, as applicable, integration of Tracts A and B, with the royalty allocations provided for in the leases and pooling declaration.

It is the position of the Division of Oil and Gas that only persons with an ownership interest in the oil and gas property within the Muehlenbein-Midway Unit are entitled to share in the production from that unit and that the terms of such sharing are usually determined by a mutually agreed upon lease between the oil and gas interest owner and the oil and gas producer. Where such interests are not able to be mutually integrated, then the interests can be ordered to be integrated under IC 14-37-9.

## **Background Information**

Indiana law requires the protection of what are known as "correlative rights." This means that a property owner's opportunity to receive the benefits of the oil, gas and other hydrocarbons located beneath their acreage cannot be unreasonably taken away. Any owner of oil and gas interests is entitled to share in the production of oil and gas produced from their property. This may result either from the drilling of a well by the owner or by conveying their oil and gas interests to another party who would then drill a well and allocate a proportionate share of the proceeds from the production to the owner. Most owners choose to lease their oil and gas interests to another party rather than assume the risk, expense, and liability associated with the drilling of their own well.

Where owners voluntarily sign an oil and gas lease, the lease agreement establishes the specific terms and payments to be made from production. If an owner has chosen not to negotiate the terms of exploration and production, the compulsory integration process is intended to safeguard their correlative rights. It is our understanding that a representative of the petitioner has made a diligent and reasonable attempt to obtain your consent to the leasing of your oil and gas interests as documented in EXHIBIT "C" of the Petition.

In order to prevent waste of oil or natural gas and the drilling of unnecessary wells, Indiana regulations also establish requirements for an operator proposing to drill a well for oil and gas purposes. According to 312 IAC 16-5-1 and 16-5-2, operators are required to form a drilling unit, also known as a spacing unit, of sufficient size, so as to effectively and economically drain all of the oil or gas resources thereunder, while minimizing the environmental impact.

Indiana Law, at IC 14-37-9, spells out the requirements for the voluntary and involuntary integrating of oil and gas interests among different owners within an established drilling unit. Integration occurs voluntarily when all property owners within a spacing unit execute an oil and gas lease containing a pooling clause in favor of a single developer or well operator. The law also allows for the integration of interests in instances where not all of the oil and gas interest owners have executed a lease. This process is sometimes referred to as "forced pooling".

Accordingly, a well operator may submit a petition for involuntary integration to the Division of Oil and Gas whenever the integration of interests is necessary to prevent the stated statutory purposes of avoiding waste and preventing the drilling of unnecessary wells. Prior to submitting a petition, a well operator is required to obtain a substantial majority of the interests within the drilling unit and must also have made a diligent and reasonable attempt to obtain the consent of all owners of oil and gas interests within the drilling unit.

A copy of the petition is included for your review. Copies may also be viewed from our website at <http://www.in.gov/dnr/dnroil/3790.htm>. A hyperlink to the petition can be viewed by selecting the ([View Petition](#)) hyperlink for this cause number (DOG-3-2010).

In considering the petition the Division of Oil and Gas must ensure that owners receive an equitable share of the crude oil and natural gas produced from the integrated drilling unit. For primary production wells, owners usually are assigned a percentage share based upon the

ratio of the acreage you own and the total acreage in the unit. For example a 25 acre parcel which was part of a 100 acre unit would be assigned a 0.25 or 25% interest in the oil or gas production multiplied by a factor which reflects the specific oil and gas interests which the owner possesses (i.e. 1/8<sup>th</sup> royalty interest, 7/8<sup>th</sup> working interest, etc.).

### **Requested Response**

To the extent you consider the mortgage interests currently held on any of the properties within the Muehlenbien-Midway Unit to, in effect, be an ownership interest in the oil and gas on those properties, we are requesting that you provide us with a statement to that effect and a description of the basis for your claim, particularly in light of IC 32-23-7-4(c). A full copy of the text of this statute with respect to oil and gas estates can be viewed at <http://www.in.gov/legislative/ic/code/title32/ar23/ch7.html>.

Absent information to the contrary, our position will be that the basis for the distribution of proceeds from the production of crude oil and natural gas from the Muehlenbien-Midway Unit will be as provided in the terms and conditions of the oil and gas lease previously executed for the subject property or through the terms and conditions specified in the final order issued under this administrative cause for those property interests covered in this proceeding.

### **Notice of Informal Hearing – Cause No. DOG-3--2010**

An informal hearing to consider the petition and to receive comments from interested persons is scheduled for Tuesday, August 10, 2010, at 10:00 a.m. (Central) at the Angel Mounds Historic Site, located at 8215 Pollack Ave., Evansville, IN 47715 ([Map](#)). This hearing is being conducted as required by IC 14-37-3-16(4) and 312 IAC 16-2-3.

Any interested person may attend the informal hearing and present relevant oral or written comments in person or by counsel. While not required, persons wishing to attend are encouraged to notify the Division of Oil and Gas in advance at (317) 232-4055, to assist us in ensuring that adequate space is available to accommodate everyone wishing to attend and that suitable accommodations are made for persons with special needs.

If you have questions pertaining to the petition or the informal hearing process, please contact me at 317-232-4058 or by e-mail at [hmcdivitt@dnr.in.gov](mailto:hmcdivitt@dnr.in.gov). Comments concerning the petition may be submitted:

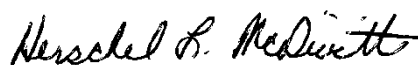
- (1) in person at the informal hearing;
- (2) in writing to the address below provided they are postmarked no later than **August 8, 2010**;
- (3) by fax to (317) 232-1550 no later than **4:00 PM (Central) on August 10, 2010**; or
- (4) by email to [hmcdivitt@dnr.in.gov](mailto:hmcdivitt@dnr.in.gov):

Herschel L. McDivitt, Director  
**Division of Oil and Gas**  
Department of Natural Resources

Cause No. DOG-3-2010  
402 West Washington Street, Room W-293  
Indianapolis, IN 46204

All comments will be taken into consideration whether or not the commenter attends the informal hearing. After reviewing all oral and written comments received, the Division will either approve or deny the Petition for Integration of Interests filed by Countrymark Energy Resources, LLC. in a written order that will be subject to administrative review under Indiana Code 4-21.5.

**July 2, 2010**  
DATED



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Herschel L. McDivitt  
Director  
Indiana Division of Oil and Gas